

OFFICE OF THE SUPERINTENDENT

Millburn Public Schools

INFORMATION ITEM

March 1, 2010

To: Board of Education Members

From: Ellen E. Mauer, PhD

Subject: First Reading-Types of School Board Meetings - Policy 2:200

This policy has been updated to reflect the newest Open Meetings Act requirements and adds one additional legal reference. The Open Meetings Act requirements are that paragraph that lists the superintendent or designee to receive training and encourages BOE members to get the training.

## School Board

### Types of School Board Meetings 1

#### General

For all meetings of the School Board and its committees, the Superintendent or designee shall satisfy all notice and posting requirements contained herein as well as in the Open Meetings Act. This shall include mailing meeting notifications to news media that have officially requested them and to others as approved by the Board. <sup>2</sup> Unless otherwise specified, all meetings are held in the District's main office. <sup>3</sup> Board policy 2:220, *School Board Meeting Procedure*, governs meeting quorum requirements.

The Superintendent is designated on behalf of the Board and each Board committee to receive the training on compliance with the Open Meetings Act that is administered by the Illinois Attorney General's Public Access Counselor. The Superintendent may identify other employees to receive the training. Each Board member is encouraged to take the training once during his or her term. <sup>4</sup>

#### Regular Meetings

The Board announces the time and place for its regular meetings at the beginning of each fiscal year. <sup>5</sup> The Superintendent shall prepare and make available the calendar of regular Board meetings. Meeting dates may be changed with 10 days' notice in accordance with State law. <sup>6</sup>

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State law controls this policy's content. The provisions of the Open Meetings Act (OMA) do not apply to collective bargaining negotiations and grievance arbitrations as provided in 115 ILCS 5/18.

<sup>2</sup> 5 ILCS 120/2.02. These responsibilities may be given to anyone.

<sup>3</sup> State law only requires that meetings be held in a location convenient and open to the public and no open meeting is allowed to be held on a legal holiday unless the regular meeting day falls on that holiday (5 ILCS 120/2.01). With limited exceptions, any person may record an open meeting (5 ILCS 120/2.05). See policy 2:220, *School Board Meeting Procedure*.

<sup>4</sup> Each board must designate at least one employee or member to receive training on compliance with OMA (5 ILCS 120/1.05, added by P.A. 96-542, eff. 1-1-10). Revise this paragraph if the board designates other individual(s) to receive the training. A list of designated individual(s) must be submitted to the Attorney General's Public Access Counselor. By July 1, 2010, the designated individual(s) must successfully complete an electronic training curriculum administered by the Attorney General's Public Access Counselor, and thereafter must successfully complete an annual training program. Whenever a public body designates an additional employee or member to receive this training, that person must successfully complete the electronic training curriculum within 30 days after that designation.

The OMA does not specify duties for the designated individuals who receive the training but presumably they would assist the board in its OMA compliance efforts. Recognizing that compliance with the OMA is a shared responsibility of board members, the sample policy urges each member to take the training. This sentence may be deleted or replaced by:

Alternative 1: Each Board member will, if possible, also take the training even though no Board member is specifically designated.

Alternative 2: Each Board member may also take the training [continue as in the alternative above].

<sup>5</sup> The OMA and The School Code have different provisions regarding the establishment of a regular meeting schedule. The OMA requires each public body to prepare and make available a regular meeting schedule at the beginning of each calendar or fiscal year (5 ILCS 120/2.03). The School Code states that this task is accomplished during the organizational meeting. By *announcing* the schedule at the beginning of each calendar or fiscal year and by *fixing* the schedule at the organizational meeting, a board can implement both laws. Note that the phrase in this sample policy, "at the beginning of each fiscal year," can be changed to "at the beginning of each calendar year."

A meeting agenda shall be posted at the District's main office and the Board's meeting room, or other location where the meeting is to be held, at least 48 hours before the meeting. <sup>7</sup> Items not specifically on the agenda may still be considered during the meeting. <sup>8</sup>

### Closed Meetings

The Board and Board committees may meet in a closed meeting to consider the following subjects:

1. The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity. 5 ILCS 120/2(c)(1).
2. Collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees. 5 ILCS 120/2(c)(2).
3. The selection of a person to fill a public office, as defined in the Open Meetings Act, including a vacancy in a public office, when the public body is given power to appoint under law or ordinance, or the discipline, performance or removal of the occupant of a public office, when the public body is given power to remove the occupant under law or ordinance. 5 ILCS 120/2(c)(3).
4. Evidence or testimony presented in open hearing, or in closed hearing where specifically authorized by law, to a quasi-adjudicative body, as defined in the Open Meetings Act, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning. 5 ILCS 120/2(c)(4).
5. The purchase or lease of real property for the use of the public body, including meetings held for the purpose of discussing whether a particular parcel should be acquired. 5 ILCS 120/2(c)(5).
6. The setting of a price for sale or lease of property owned by the public body. 5 ILCS 120/2(c)(6).
7. The sale or purchase of securities, investments, or investment contracts. 5 ILCS 120/2(c)(7).
8. Security procedures and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably potential danger to the safety of employees, students, staff, the public, or public property. 5 ILCS 120/2(c)(8).
9. Student disciplinary cases. 5 ILCS 120/2(c)(9).
10. The placement of individual students in special education programs and other matters relating to individual students. 5 ILCS 120/2(c)(10).

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<sup>6</sup> Regular meeting dates may be changed by giving at least 10 days notice in a newspaper of general circulation and posting a notice at the district's main office (5 ILCS 120/2.03). Districts with a population of less than 500, in which no newspaper is published, may give the 10 days notice by posting a notice in at least 3 prominent places within the district, in addition to posting a notice at the district's main office (Id.). Notice shall also be given to those news media having filed an annual request to receive notifications (Id.).

<sup>7</sup> 5 ILCS 120/2.02.

<sup>8</sup> Id. On January 24, 2002, in a non-school case, the Ill. Appellate Court held that the OMA prohibits a board from voting on a matter at a regular meeting that is not on the agenda (Rice v. Board of Trustees, Adams Co., 762 N.E.2d 1205 (Ill.App.4, 2002)). Consult the board attorney for guidance. The posting location should be modified, if necessary, to comply with the law's requirement that the agenda be posted at the district's main office. The agenda's format is up to the board.

11. Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting. 5 ILCS 120/2(c)(11).
12. The establishment of reserves or settlement of claims as provided in the Local Governmental and Governmental Employees Tort Immunity Act, if otherwise the disposition of a claim or potential claim might be prejudiced, or the review or discussion of claims, loss or risk management information, records, data, advice or communications from or with respect to any insurer of the public body or any intergovernmental risk management association or self insurance pool of which the public body is a member. 5 ILCS 120/2(c)(12).
13. Self evaluation, practices and procedures or professional ethics, when meeting with a representative of a statewide association of which the public body is a member. 5 ILCS 120/2(c)(16). <sup>9</sup>
14. Discussion of minutes of meetings lawfully closed under the Open Meetings Act, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06. 5 ILCS 120/2(c)(21).

The Board may hold a closed meeting, or close a portion of a meeting, by a majority vote of a quorum, taken at an open meeting. The vote of each Board member present, and the reason for the closed meeting, will be publicly disclosed at the time of the meeting and clearly stated in the motion and the meeting minutes. <sup>10</sup>

A single motion calling for a series of closed meetings may be adopted when such meetings will involve the same particular matters and are scheduled to be held within 3 months of the vote. <sup>11</sup>

No final Board action will be taken at a closed meeting. <sup>12</sup>

#### Reconvened or Rescheduled Meetings

A meeting may be rescheduled or reconvened. Public notice of a rescheduled or reconvened meeting shall be given in the same manner as that for a special meeting, except that no public notice is required when the original meeting is open to the public and: (1) is to be reconvened within 24 hours, or (2) an announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in the agenda. <sup>13</sup>

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<sup>9</sup> IASB field services directors are available to facilitate a board self-evaluation.

<sup>10</sup> 5 ILCS 120/2a. Provided the open meeting was properly noticed, no additional notice is required to close the meeting. A motion to close a meeting can be as simple as, "I move that the Board hold [go into] a closed session to discuss [state one of the closed meeting grounds with reference to the specific section authorizing the closed meeting]."

The adequacy of a motion to go into closed session was discussed in Henry v. Anderson and Champaign Community Unit School Dist. No. 4, 827 N.E.2d 522 (Ill.App.4, 2005). A statutory citation is not required in the motion to go into closed session, but the OMA does require a reference to the specific exception. The *litigation* exception is tricky. If the litigation has been filed and is pending, the motion to go into closed session need only state that the board will discuss litigation that has been filed and is pending. If the litigation has not been filed, the board must: (1) find that the litigation is probable or imminent, and (2) record and enter into the minutes the basis for that finding.

<sup>11</sup> Id.

<sup>12</sup> 5 ILCS 120/2(e).

<sup>13</sup> 5 ILCS 120/2.02.

### Special Meetings

Special meetings may be called by the President or by any 3 members of the Board by giving notice thereof, in writing, stating the time, place, and purpose of the meeting to remaining Board members by mail at least 48 hours before the meeting, or by personal service at least 24 hours before the meeting. **14**

Public notice of a special meeting is given by posting a notice at the District's main office at least 48 hours before the meeting and by notifying the news media that have filed a written request for notice. A meeting agenda shall accompany the notice. **15**

No matters will be discussed, considered, or brought before the Board at any special meeting other than such matters as were included in the stated purpose of the meeting. **16**

### Emergency Meetings

Public notice of emergency meetings shall be given as soon as practical, but in any event, before the meeting to news media that have filed a written request for notice. **17**

### Posting on the District Website **18**

In addition to the other notices specified in this policy, the Superintendent or designee shall post the following on the District website: (1) the annual schedule of regular meetings, which shall remain posted until the Board approves a new schedule of regular meetings; (2) a public notice of all Board meetings; and (3) the agenda for each regular meeting which shall remain posted until the regular meeting is concluded.

LEGAL REF.: 5 ILCS 120/, Open Meeting Act.  
5 ILCS 140/, Freedom of Information Act.  
105 ILCS 5/10-6 and 5/10-16.

CROSS REF.: 2:210 (Organizational School Board Meetings), 2:220 (School Board Meeting Procedure), 2:230 (Public Participation at School Board Meetings and Petitions to the Board), 6:235 (Access to Electronic Networks)

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**14** 105 ILCS 5/10-16 (2 members of a board of directors; 105 ILCS 5/10-6). Lawyers disagree whether 3 members may call a special meeting without violating the OMA, although there is general agreement that no violation occurs if 3 members call a special meeting while they are participating in a lawful board committee meeting with the matter on the agenda.

**15** 5 ILCS 120/2.02. News media that gave the board an address or telephone number within the district's territorial jurisdiction must be given notice in the same manner as that given board members.

**16** Id. and 5 ILCS 120/2.02. The validity of any board action that is germane to a subject on the agenda is not affected by other errors or omissions in the agenda (Id.).

**17** 5 ILCS 120/2.02(a).

**18** Required *only if* the district has a website that is maintained by a full-time staff member; if not, this section may be omitted (5 ILCS 120/2.02). Note that 5 ILCS 120/2.02(b) requires that a notice of *all* meetings be posted on the district website, but only notices of *regular* meetings must remain posted until the *regular* meeting is concluded. As this is an obvious oversight, it is wise to leave the notice of every meeting on the website until after the meeting occurred. The agenda must remain on the district website until the regular meeting is concluded (Id.).

## **School Board**

### **Types of School Board Meetings**

#### **General**

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#### **Regular Meetings**

The Board announces the time and place for its regular meetings at the beginning of each fiscal year. The Superintendent shall prepare and make available the calendar of regular Board meetings. Meeting dates may be changed with 10 days' notice in accordance with State law.

A meeting agenda shall be posted at the District's main office and the building in which the Board of Education meets, or other location where the meeting is to be held, at least 48 hours before the meeting. Items not specifically on the agenda may still be considered during the meeting.

#### **Closed Meetings**

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2. Collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees. 5 ILCS 120/2(c)(2).
3. The selection of a person to fill a public office, as defined in the Open Meetings Act, including a vacancy in a public office, when the public body is given power to appoint under law or ordinance, or the discipline, performance or removal of the occupant of a public office, when the public body is given power to remove the occupant under law or ordinance. 5 ILCS 120/2(c)(3).
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12. The establishment of reserves or settlement of claims as provided in the Local Governmental and Governmental Employees Tort Immunity Act, if otherwise the disposition of a claim or potential claim might be prejudiced, or the review or discussion of claims, loss or risk management information, records, data, advice or communications from or with respect to any insurer of the public body or any intergovernmental risk management association or self insurance pool of which the public body is a member. 5 ILCS 120/2(c)(12).
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LEGAL REF.: 5 ILCS 120/1 et seq.  
105 ILCS 5/10-6 and 5/10-16.

CROSS REF.: 2:210 (Organizational School Board Meetings), 2:220 (School Board Meeting Procedure), 2:230 (Public Participation at School Board Meetings and Petitions to the Board), 6:235 (Access to Electronic Networks)

ADOPTED: OCTOBER 19, 2009